

BILL ANALYSIS

Senate Research Center
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S.B. 2140
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Agriculture, Water & Rural Affairs
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Economically Distressed Area Program (EDAP) was established by the 71st Legislature in 1989 to provide financial assistance in the form of grants and loans for water and wastewater service to economically distressed areas where services do not exist or systems do not meet minimum state standards. The Texas Water Development Board (TWDB), as the administrator of EDAP, sells bonds and uses the proceeds to fund the program, which includes measures to prevent future substandard developments.

S.B. 2140 amends current law to add drainage projects as eligible for financial assistance under EDAP, in addition to water supply and sewer projects, which are currently authorized.

Currently, financial assistance through EDAP is constitutionally limited to providing wholesale and retail water and wastewater facilities to economically distressed areas. S.J.R. 61 would allow TWDB to also provide financial assistance for drainage projects, which could help to address mosquito-borne pathogens such as Zika virus and to ensure road access during storm events.

S.B. 2140 also directs TWDB to use additional bonds in conjunction with other sources of financial assistance and to promote and support financially viable public-private partnerships.

As proposed, S.B. 2140 amends current law relating to the provision by the Texas Water Development Board of financial assistance for the development of certain projects in economically distressed areas.

[NOTE: While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Water Development Board is modified in SECTION 9 (Section 17.936, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Subchapter K, Chapter 17, Water Code, to read as follows:

SUBCHAPTER K. ASSISTANCE TO ECONOMICALLY DISTRESSED AREAS FOR
WATER SUPPLY, SEWER SERVICE, AND DRAINAGE PROJECTS

SECTION 2. Amends Sections 17.921(1) and (2), Water Code, to redefine "economically distressed area" and "financial assistance."

SECTION 3. Amends Section 17.922, Water Code, as follows:

Sec. 17.922. FINANCIAL ASSISTANCE. (a) Authorizes the economically distressed areas account to be used by the Texas Water Development Board (TWDB) to provide financial assistance to political subdivisions for the construction, acquisition, or

improvement of water supply, sewer, and drainage services, including providing certain funds. Makes a nonsubstantive change.

(b) Requires TWDB, to the extent practicable, to use the funds in the economically distressed areas account in conjunction with the other financial assistance available through TWDB to encourage the use of cost-effective water supply, wastewater, and drainage systems, including regional systems, to maximize the long-term economic development of counties eligible for financial assistance under the economically distressed areas program. Requires that financial assistance provided from the economically distressed areas account in no event be used to provide water supply, wastewater, or drainage service to any area that is not an economically distressed area. Makes nonsubstantive changes.

SECTION 4. Amends Subchapter K, Chapter 17, Water Code, by adding Section 17.9226, as follows:

Sec. 17.9226. USE OF CERTAIN GENERAL OBLIGATION BONDS. Requires TWDB to:

(1) work to maximize the effectiveness of the additional general obligation (GO) bonds authorized by Section 49-d-10(a-1) (relating to authorizing TWDB to issue certain additional GO bonds), Article III (Legislative Department), Texas Constitution, by using the additional bonds in conjunction with other sources of financial assistance, including nonpublic funds, to provide financial assistance to political subdivisions for the construction, acquisition, or improvement of water supply, sewer, and drainage services; and

(2) use the additional GO bonds authorized under Section 49-d-10(a-1), Article III, Texas Constitution, to promote and support public-private partnerships that TWDB determines are financially viable, will diversify the methods of financing available for water supply, sewer, and drainage services, and will reduce reliance on the issuance of bonds supported with general revenue.

SECTION 5. Amends Sections 17.927(a) and (b), Water Code, as follows:

(a) Authorizes a political subdivision to apply to TWDB for financial assistance under this subchapter (Assistance to Economically Distressed Areas for Water Supply and Sewer Service Products) by submitting an application together with a plan for providing water supply, sewer, or drainage services to an economically distressed area for which the financial assistance is to be used. Makes a nonsubstantive change.

(b) Requires the application and plan to include certain criteria. Makes conforming and nonsubstantive changes.

SECTION 6. Amends Section 17.928(c), Water Code, as follows:

(c) Prohibits TWDB, if an applicant includes a proposal for treatment or drainage works, from delivering funds for the treatment or drainage works until the applicant has received a permit for construction and operation of the treatment or drainage works and approval of the plans and specifications from the Texas Natural Resource Conservation Commission (TNRCC) or unless such a permit is not required by TNRCC.

SECTION 7. Amends Section 17.929(a), Water Code, as follows:

(a) Requires TWDB, in passing on an application for financial assistance, to consider the need of the economically distressed area to be served by the water supply sewer, or drainage services in relation to the need of other political subdivisions requiring financial assistance under this subchapter and the relative costs and benefits of all applications, and

the financing of the proposed water supply, sewer, or drainage project, including consideration of certain financial information. Makes nonsubstantive changes.

SECTION 8. Amends Section 17.933(d), Water Code, to require TWDB in determining the amount and form of financial assistance and the amount and form of repayment, if any, to consider the just, fair, and reasonable charges for water, wastewater, and drainage service as provided in this code.

SECTION 9. Amends Section 17.936(d), Water Code, to authorize the provider of water or wastewater utility or drainage service to an economically distressed area, to recover from a developer or owner of an undeveloped lot economically distressed areas program impact fees as provided by rules adopted by TWDB.

SECTION 10. Effective date: the date on which the constitutional amendment proposed by the 85th Legislature, Regular Session, 2017, providing for the issuance of additional GO bonds by TWDB to provide financial assistance for the development of certain projects in economically distressed areas takes effect.